

ENROLLED SENATE
BILL NO. 1938

By: Sykes of the Senate

and

Johnson and Kern of the
House

An Act relating to the Oklahoma Children's Code; amending 10 O.S. 2001, Section 7002-1.1, as last amended by Section 12, Chapter 233, O.S.L. 2009 and as renumbered by Section 224, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-4-101), which relates to jurisdiction and venue; modifying proper venue in certain actions; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7002-1.1, as last amended by Section 12, Chapter 233, O.S.L. 2009 and as renumbered by Section 224, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-4-101), is amended to read as follows:

Section 1-4-101. A. 1. Upon the filing of a petition, the assumption of the custody of a child, or issuance of an emergency custody order pursuant to the provisions of the Oklahoma Children's Code, the district court shall obtain jurisdiction over any child who is or is alleged to be deprived. Jurisdiction shall also be obtained over any parent, legal guardian, or custodian of and any other person living in the home of such child who appears in court or has been properly served with a summons pursuant to Section 1-4-304 of this title.

2. When jurisdiction has been obtained over a child who is or is alleged to be a deprived child:

- a. such jurisdiction may be retained until the child becomes eighteen (18) years of age,
- b. the court may issue any temporary order or grant any interlocutory relief authorized by this Code in an emergency, regardless of whether another district court within the county or state has prior or current jurisdiction to determine the custody, support, or visitation of the child,
- c. all other action then pending or thereafter commenced within the county or state that concerns the custody, support, or visitation of the child shall be automatically stayed unless after notice to the parties in the deprived action, the written consent of such court is obtained and filed in the other proceeding; provided, a child's delinquency action may, in the discretion of the court, proceed pursuant to the Oklahoma Juvenile Code,
- d. all orders entered in the deprived proceeding concerning the custody, support, or visitation of a child shall control over conflicting orders entered in other actions until such time as the jurisdiction of the court in the deprived proceeding terminates, and
- e. the judge presiding over a deprived action shall have the authority to make a final determination in the matter and preside over any separate action necessary to finalize a child's court-approved permanency plan including an adoption, guardianship, or other custody proceeding.

B. 1. Venue of any action involving a child alleged to be deprived ~~may~~ shall be in the county where:

- a. ~~the child is found,~~

~~b.~~ the child resides, or has resided for six (6) months preceding the filing,

~~e.~~

b. the alleged acts of deprivation occurred, or

~~d.~~

c. a parent or sibling has a deprived action pending.

If none of the locations listed in this paragraph are known, venue may be in the county where the child is found.

2. A deprived action shall not be dismissed if filed in the wrong venue, but shall be transferred to the proper venue upon discovery of the proper venue, unless venue is waived by all parties on the record.

3. Except as provided for in this subsection, a deprived action commenced in a county outside of the residence of the child may be transferred to the county of the child's residence at any stage in the proceedings after the petition has been filed. The receiving court shall continue with the proceedings as though the original petition had been filed in that court.

a. When a petition or motion to terminate parental rights has been filed, the case shall not be transferred until the sending court has concluded the termination proceeding.

b. Absent good cause to the contrary, a deprived action shall be transferred to the county where other proceedings are pending concerning custody of the child or the child's siblings.

c. Prior to adjudication pursuant to Section 1-4-603 of this title, a case may be transferred to a venue where the evidence or witnesses are located when the interests of justice or convenience of the parties so require. Following adjudication, the receiving court

may transfer the case back to the county of the child's legal residence as provided in this section.

4. For purposes of this section, the residence of the child shall be the residence of the person who has the legal right to physical custody of the child according to a prior court order or by operation of law.

- a. If there is no order determining the custody of the child, the custodian of the child shall be:
 - (1) both parents where they reside together,
 - (2) the primary or actual physical custodial parent where parents do not reside together, or
 - (3) the mother where paternity has or has not been established.
- b. The residence of a newborn child shall be deemed to be the county where the child's mother legally resided at the time of the child's birth.
- c. When the child is in the permanent custody of a public or private child care agency, the residence of the child shall be the county in which the child resides at the time when legal proceedings are initiated.
- d. For purposes of transfer, the residence of the child may be with the person that the court approves for permanent placement.

5. The court may request the transfer of the case to another county where the child resides.

- a. Prior to transferring a case to another venue, the court shall contact the judge in the other venue to confirm that the judge in the other venue will accept the transfer.
- b. Upon written confirmation that transfer of venue is accepted, the transferring judge shall enter the

transfer order, and certified copies of all documents of record with the clerk of the transferring court shall be transmitted to the receiving court along with the names and addresses of all parties entitled to notice of any further proceedings.

- c. Upon transfer of the case, the receiving court shall set a hearing date for the parties that is not more than thirty (30) days following the date upon which the change of venue has occurred.

SECTION 2. This act shall become effective November 1, 2010.

Passed the Senate the 25th day of February, 2010.

Presiding Officer of the Senate

Passed the House of Representatives the 30th day of March, 2010.

Presiding Officer of the House
of Representatives